



Agricultural Marketing Service

7 CFR Part 205

[Document Number AMS-NOP-21-0060; NOP-21-02]

RIN 0581-AE11

National Organic Program; Proposed Amendments to the National List of Allowed and Prohibited Substances per October 2020 and April 2021 NOSB

Recommendations (Handling, Crop)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The U.S. Department of Agriculture’s (USDA) Agricultural Marketing Service (AMS) proposes amendments to the National List of Allowed and Prohibited Substances (National List) section of the USDA’s organic regulations to implement recommendations submitted to the Secretary of Agriculture (Secretary) by the National Organic Standards Board (NOSB). This rule proposes to add low-acyl gellan gum, a food additive used as a thickener, gelling agent, and stabilizer; and paper-based crop planting aids to the National List, along with a definition of paper-based crop planting aids. If finalized, low-acyl gellan gum would be allowed as an ingredient in processed organic products, and paper-based crop planting aids would be allowed in organic crop production. The rule also proposes the correction of a spelling error on the National List to change “wood resin” to “wood rosin”.

DATES: Send comment on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may send comments on this proposed rule to the Federal eRulemaking Portal at <https://www.regulations.gov/>. You can access this proposed rule and instructions for submitting public comments by searching for document number,

AMS-NOP-21-0060. Comments may also be sent to Jared Clark, Standards Division, National Organic Program, AMS, USDA; 1400 Independence Ave. SW, Room 2642-So., Ag Stop 0268, Washington, DC 20250-0268, or Email: Jared.Clark@usda.gov.

Instructions: All comments received must include the docket number AMS-NOP-21-0060; NOP-21-02, and/or Regulatory Information Number (RIN) 0581-AE11 for this rulemaking. You should clearly indicate the topic and section number of this proposed rule to which your comment refers, state your position(s), offer any recommended language change(s), and include relevant information and data to support your position(s) (e.g., scientific, environmental, manufacturing, industry, or industry-impact information, etc.). All comments and relevant background documents posted to <https://www.regulations.gov> will include any personal information provided.

FOR FURTHER INFORMATION CONTACT: Jared Clark, Standards Division, National Organic Program, 202-720-3252, Jared.Clark@usda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, the Secretary established the Agricultural Marketing Service's (AMS) National Organic Program and the USDA organic regulations (65 FR 80547). Within the USDA organic regulations (7 CFR Part 205) is the National List of Allowed and Prohibited Substances (or "National List"). The National List identifies the synthetic substances that may be used, and the nonsynthetic (natural) substances that may not be used, in organic crop and livestock production. It also identifies the nonorganic substances that may be used in or on processed organic products (i.e., in organic "handling").

The Organic Foods Production Act of 1990 (OFPA) (7 U.S.C. 6501 – 6524) establishes what may be included on the National List and the procedures that the USDA must follow to amend the National List (§ 6517). OFPA also describes the NOSB's

responsibilities in proposing amendments to the National List, including the criteria for evaluating amendments to the National List (§ 6518(m)). Section 205.607 of the USDA organic regulations permits any person to petition to add or remove a substance from the National List. The petition process is described in further detail in the Statutory and Regulatory Authority section below.

The NOSB submitted recommendations to the Secretary after the conclusion of its public meetings on October 30, 2020 and April 30, 2021. In its 2020¹ and 2021² recommendations, the NOSB concluded that adding paper-based crop planting aids and low-acyl gellan gum, a food additive used as a thickener, gelling agent, and stabilizer, to the National List was consistent with OFPA evaluation criteria (7 U.S.C. 6518(m)). This proposed rule addresses these NOSB recommendations to add low-acyl gellan gum and paper-based crop planting aids to the National List and to add a definition of paper-based crop planting aids to § 205.2 (Terms Defined).

II. Overview of Proposed Amendments

The following provides an overview of the proposed amendments to the National List, along with the NOSB and AMS justifications for each proposed amendment. AMS welcomes comments on each proposed amendment. Comments received during the comment period will inform AMS's decisions for the final rule; specifically, whether the proposed amendments align with OFPA criteria and are justified.

A. Low-Acyl Gellan Gum (§ 205.605(b))

AMS is proposing to add low-acyl gellan gum to the National List at § 205.605(b) as a nonagricultural, synthetic substance allowed for use in organic handling. If finalized, low-acyl gellan gum would be allowed as an ingredient in processed organic and “made

¹ NOSB recommendation for low-acyl gellan gum, October 30, 2020. Available at: https://www.ams.usda.gov/sites/default/files/media/HSLowAcylGellanGumRec_webpost.pdf

² NOSB recommendation for paper-based crop planting aids, April 30, 2021. Available at: https://www.ams.usda.gov/sites/default/files/media/CSPaperBasedCropPlantingAids_FinalRec.pdf

with organic” products. This AMS proposal follows a recommendation to AMS from the NOSB. The NOSB’s recommendation was based on their review of CP Kelco’s August 2019 petition,^{3,4} stakeholder comments, and a third-party technical report.

Background

Gellan gums are used in food products as thickeners, gelling agents, and stabilizers, and they can be used in products that require gelling, texturizing, stabilizing, suspending, film-forming, and structuring (e.g., capsules used for dietary supplements). The petitioner argues that low-acyl gellan gum is necessary in organic handling as it holds unique qualities not found in other thickener substances on the National List, including: the ability to create a stable fluid gel with suspended matter in beverages containing fruit pulp or jelly pieces; product clarity not offered by high-acyl gellan gum; heat stability in acid systems unlike carrageenan; the ability to be used in standard processing without additional steps (e.g., compared to pectin, which requires special handling in gelled confections); and providing a carrageenan-free, vegetarian alternative for hard and soft capsules (e.g., dietary supplements).

As described in the third-party technical report,⁵ there are two forms of gellan gum: high-acyl and low-acyl. High-acyl gellan gum is listed on the National List (at § 205.605(a)) as a nonsynthetic, nonagricultural substance allowed in organic handling. To manufacture the low-acyl form, high-acyl gellan gum is deacetylated using potassium hydroxide and heat resulting in a synthetic substance per the definition of “synthetic” at § 205.2. Acid is then used to lower the pH, and the low-acyl gellan gum is recovered from the solution by alcohol precipitation.

³ August 2019 low-acyl gellan gum petition:
<https://www.ams.usda.gov/sites/default/files/media/PetitionLowAcylGellanGum08082019.pdf>

⁴ March 2020 low-acyl gellan gum petition:
https://www.ams.usda.gov/sites/default/files/media/PetitionAddendum_LAGellanGum_ResponsetoNOSB_03062020.pdf

⁵ Gums technical report, 2018:
<https://www.ams.usda.gov/sites/default/files/media/GumsTRFinal20180130.pdf>

NOSB Recommendation

The NOSB recommended the addition of low-acyl gellan gum to the National List, at § 205.605(b), as a synthetic nonagricultural substance allowed in organic handling. After the NOSB reviewed the low-acyl gellan gum petition, a 2018 third-party technical report on gums, and public comments, they determined that the petitioned use of low-acyl gellan gum meets the OFPA criteria for inclusion in the National List in accordance with 7 U.S.C. 6518(m). In the rationale supporting their recommendation, the NOSB noted minimal adverse effects on the environment and distinct properties of low-acyl gellan gum, including a hard, non-elastic, brittle gel (unlike high-acyl gellan gum) and being a vegetarian option for the manufacture of capsules used for dietary supplements. The NOSB recommended that low-acyl gellan gum be classified as “synthetic,” as the manufacturing process includes deacetylation (the removal of acetyl group(s) from molecules), which is a chemical change.

AMS Review of NOSB Recommendation

AMS agrees that low-acyl gellan gum appears to meet the requirements for addition to the National List under 7 U.S.C. 6517(c)(1)(A). Public comments submitted to the NOSB and the 2018 third-party technical report indicate low-acyl gellan gum is necessary due to the apparent unavailability of wholly natural substitute products. Additionally, low-acyl gellan gum does not appear to be harmful to human health or the environment, as gellan gum is listed by the Food & Drug Administration (FDA) as a food additive permitted for direct addition to food for human consumption at 21 CFR 172.665. Additionally, gellan gum is allowed as an inert ingredient in minimum risk pesticides (i.e., pesticide products exempt from the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA]) by the U.S. Environmental Protection Agency (EPA) at 40 CFR 152.25(f)(2)(iv). AMS also agrees with the NOSB’s recommendation to classify low-acyl gellan gum as a “synthetic” substance because the process of removing

acetyl groups by the deacetylation portion meets the definition of “synthetic” under § 205.2.

As low-acyl gellan gum appears to meet the requirements at 7 U.S.C. 6517(c)(1)(A), AMS proposes the addition of low-acyl gellan gum to the National List at 7 CFR 205.605(b) as a nonagricultural synthetic substance allowed for use in “organic” and “made with organic (specified ingredients or food group(s))” processed products.

B. Paper-Based Crop Planting Aids (§ 205.601(o)(2))

AMS is proposing to add paper-based crop planting aids to the National List at § 205.601(o)(2) as a synthetic substance allowed for use in organic crop production and add a definition of paper-based crop planting aids to § 205.2 (Terms Defined). If finalized, paper-based crop planting aids would be allowed in organic crop production. This AMS proposal follows a recommendation to AMS from the NOSB from their review of Small Farm Works and Stone Circle Farm’s August 2018 petition,^{6,7} a third-party technical report, and public comment.

Background

Paper-based crop planting aids are used to transplant closely spaced crops, such as onions, beets, baby salad greens, etc. The petitioner argued that paper-based crop planting aids are necessary in organic crop production as they allow crop producers to replace the slower and more costly method of transplanting by hand. These paper-based crop planting aids, typically in the form of individual paper pots or paper chain pots, are generally used by small scale farming operations to transplant closely spaced crops using non-motorized equipment.

⁶ August 2018 paper planting pots petition:

<https://www.ams.usda.gov/sites/default/files/media/PaperPotorContainerPetition080718.pdf>

⁷ August 2018 paper planting pots petition addendum:

<https://www.ams.usda.gov/sites/default/files/media/PetitionAdendumPaperPots10022018.pdf>

As described in the 2019 Technical Report on paper-pots and containers,⁸ most paper-based crop planting aids contain kraft-manufactured paper, a synthetic substance. Paper-pots and other paper-based crop planting aids also contain a variety of synthetic, nonsynthetic, biobased, and/or biodegradable strengthening, adhesive and binding, fiber reinforcement, and antimicrobial additives.

NOSB Recommendation

The NOSB recommended the addition of paper-based crop planting aids to § 205.2 Terms Defined as well as to the National List, at § 205.601(o)(2), as a synthetic substance allowed in organic crop production. The recommended definition is:

Paper-based crop planting aid. A material that is comprised of at least 60% cellulose-based fiber by weight, including, but not limited to, pots, seed tape, and collars that are placed in or on the soil and later incorporated into the soil, excluding biodegradable mulch film. Up to 40% of the ingredients can be non-synthetic, other permitted synthetic ingredients at §205.601(j), or synthetic strengthening fibers, adhesives, or resins. Contains no less than 80% biobased content as verified by a qualified third-party assessment (e.g., laboratory test using ASTM D6866 or composition review by qualified personnel). Added nutrients must comply with §205.105, 205.203, and 205.206.

The NOSB recommended an annotated listing for paper-based crop planting aids at § 205.601(o)(2) as:

Production Aids: Paper-based crop planting aids as defined in 205.2. Virgin or recycled paper without glossy paper or colored inks.

⁸ Paper pots and containers technical report, 2019:
<https://www.ams.usda.gov/sites/default/files/media/PaperTRFinal7262019.pdf>

After the NOSB reviewed the paper-based crop planting aid petition, a 2019 Technical Report on paper pots and containers, two January 2006⁹ and January 2017¹⁰ technical reports on newspaper, and public comments, the NOSB determined that the petitioned use of paper-based crop planting aids meets the OFPA criteria for allowed synthetic substances in organic crop production at 7 U.S.C. 6518(m). Specifically, the NOSB stated that allowing paper-based crop planting aids will assist small farmers in growing organic crops that would otherwise be prohibitive to grow due to the manual labor involved in transplanting. The NOSB recommended that paper-based crop planting aids be classified as “synthetic,” as the manufacturing process includes acid-base chemical reactions.

AMS Review of NOSB Recommendation

AMS agrees with the NOSB recommendation on paper-based crop planting aids, including: the classification of paper-based crop planting aids as a “synthetic” substance, the recommended definition of “paper-based crop planting aid,” and the annotation listing at § 205.601.

AMS determined that paper-based crop planting aids, as presented in the recommended definition, appear to meet the requirements for addition to the National List under 7 U.S.C. 6517(c)(1)(A). Paper-based crop planting aids are expected to readily break down in the soil and are not expected to be harmful to human health or the environment in the amounts used for this purpose. This determination is supported by the presence of paper on EPA’s list of “inert ingredients permitted in minimum risk pesticide products” at 40 CFR 152.25(f)(2)(iv). Further, paper-based crop planting aids appear to be necessary due to the lack of wholly natural substitute products. Public comments and a

⁹ Newspaper or Other Recycled Paper, January 2006:

<https://www.ams.usda.gov/sites/default/files/media/Newspaper%20TR%202006.pdf>

¹⁰ Newspaper or Other Recycled Paper, January 2017:

<https://www.ams.usda.gov/sites/default/files/media/Newspaper%20TR%20Final%2001%2011%2017.pdf>

2019 third-party technical report also found that these planting aids were consistent with organic farming, because a similar substance (newspaper) is currently allowed as a mulch and/or compost feedstock, and paper planting aids reduce plastic use.

AMS agrees with the classification of paper-based crop planting aids as a “synthetic” substance, as the acid-base reactions included in the kraft process of manufacturing paper, as well as the inclusion of additional synthetic substances to improve performance, fit the definition of “synthetic” under § 205.2 and further described in NOP 5033.¹¹

AMS reviewed public comments submitted to the NOSB prior to the October 2020 and April 2021 NOSB meetings. Many commentors requested clarification on the term “qualified personnel” in the proposed definition of *Paper-based crop planting aid*. AMS interprets “qualified personnel” to be a third-party (i.e., certifier or material review organization) capable and qualified to make limited biobased determinations based on product-specific formulation. AMS views this allowance as an alternative verification process when the biobased nature of the ingredients is clear (e.g., a product composed entirely of paper and coconut coir). AMS seeks comment on the interpretation of “qualified personnel” and the additional considerations outlined within NOSB’s recommendation.

As paper-based crop planting aids appear to meet the requirements at 7 U.S.C. 6517(c)(1)(A), AMS proposes the following: an addition of a definition of “paper-based crop planting aids” to 7 CFR 205.2, and the addition of paper-based crop planting aids to the National List at 7 CFR 205.601(o)(ii) as a synthetic substance allowed for use in organic crop production. The addition of paper-based crop planting aids at § 205.601(o)(2) would result in a redesignation of microcrystalline cheesewax to §

¹¹ NOP 5033 - Guidance: Classification of Materials:
<https://www.ams.usda.gov/sites/default/files/media/NOP-5033.pdf>

205.601(o)(1), with both present under § 205.601(o) “As production aids.” Additionally, in support of the proposed definition, AMS will explore updating the reference to ASTM D6866-12 at § 205.3 to the current standard in a future rulemaking.

C. Wood Rosin (sic. Resin; § 205.605(a))

AMS is proposing a spelling correction to “wood resin” listed in the definition of “waxes” at 7 CFR 205.605(b). In their sunset recommendation¹² for this substance, the Board noted that “wood resin” is the incorrect term and that the corrected listing should read “wood rosin.” Though it appears that resin can also refer to rosin, AMS agrees that rosin is the preferred term because it is more specific to the wood product and would provide more clarity on the substance allowed.

AMS proposes amending the listing at § 205.605(a) “Waxes – nonsynthetic (Wood resin)” to read “Waxes – nonsynthetic (Wood rosin)”.

III. Statutory and Regulatory Authority

The OFPA authorizes the Secretary to make amendments to the National List based on recommendations developed by the NOSB. Sections 6518(k) and 6518(n) of the OFPA authorize the NOSB to develop recommendations for submission to the Secretary to amend the National List and establish a process by which persons may petition the NOSB for the purpose of having substances evaluated for inclusion on, or deletion from, the National List. Section 205.607 of the USDA organic regulations permits any person to petition to add or remove a substance from the National List and directs petitioners to obtain the petition procedures from USDA. The current petition procedures published in the **Federal Register** (81 FR 12680, March 10, 2016) for amending the National List can be accessed through the NOP Program Handbook on the AMS web site in “Section I Other” at https://www.ams.usda.gov/rules-regulations/organic/handbook_

¹² Formal Recommendation, 2022 Sunset Reviews – Handling, October 30, 2020: https://www.ams.usda.gov/sites/default/files/media/HS2022SunsetRecs_webpost.pdf

A. Executive Order 12866 and Regulatory Flexibility Act

This proposed rule does not meet the criteria of a significant regulatory action under Executive Order 12866 as supplemented by Executive Order 13563. Therefore, the Office of Management and Budget (OMB) has not reviewed this rule under those Orders.

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to the action. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

The Small Business Administration (SBA) sets size criteria for each industry described in the North American Industry Classification System (NAICS) to delineate which operations qualify as small businesses.¹³ The SBA has classified small agricultural producers that engage in crop and animal production as those with average annual receipts of less than \$1,000,000. Handlers are involved in a broad spectrum of food production activities and fall into various categories in the NAICS Food Manufacturing sector. The small business thresholds for food manufacturing operations are based on the number of employees and range from 500 to 1,250 employees, depending on the specific type of manufacturing. For this category, the small business threshold is average annual receipts of less than \$16.5 million.

AMS has considered the economic impact of this proposed rulemaking on small agricultural entities. Data collected by the USDA National Agricultural Statistics Service

¹³ Table of Small Business Size Standards Matched to North American Industrial Classification System Codes, August 19, 2019: https://www.naics.com/wp-content/uploads/2017/10/SBA_Size_Standards_Table.pdf

(NASS) and the NOP indicate most of the certified organic production operations in the United States would be considered small entities. According to the 2019 Census of Agriculture, 16,585 organic farms in the United States reported total sales of organic products and total farmgate sales more than \$9.9 billion.¹⁴ Based on that data, organic sales average just under \$600,000 per farm. Assuming a normal distribution of producers, we expect that most of these producers would fall under the \$1,000,000 sales threshold to qualify as a small business.

According to the NOP's Organic Integrity Database, there are 19,059 organic handlers certified under the USDA organic regulations, as of January 2021.¹⁵ The Organic Trade Association's 2020 Organic Industry Survey has information about employment trends among organic manufacturers. The reported data are stratified into three groups by the number of employees per company: less than 5; 5 to 49; and 50 plus. These data are representative of the organic manufacturing sector and the lower bound (50) of the range for the larger manufacturers is significantly smaller than the SBA's small business thresholds (500 to 1,250). Therefore, AMS expects that most organic handlers would qualify as small businesses.

The SBA defines small agricultural service firms, which include certifying agents under the NAICS subsector "All other professional, scientific, and technical services," as those having annual receipts of less than \$16,500,000 (13 CFR 121.201). There are currently 77 USDA-accredited certifying agents; based on a query of the NOP certified organic operations database.¹⁶ While many certifying agents are small entities that would be affected by this proposed rule, we do not expect that these certifying agents would

¹⁴ U.S. Department of Agriculture, National Agricultural Statistics Service. 2019 Census of Agriculture. https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/Organics/ORGANICS.pdf

¹⁵ Organic Integrity Database: <https://organic.ams.usda.gov/Integrity/>. Accessed on January 29, 2021.

¹⁶ Organic Integrity Database, Certifier Locator: <https://organic.ams.usda.gov/Integrity/Certifiers/CertifiersLocationsSearchPage.aspx>. Accessed February 25, 2021.

incur significant costs as a result of this action. Certifying agents already must comply with the current regulations, e.g., maintaining certification records for organic operations.

The economic impact on entities affected by this rule would not be significant. The effect of this rule, if implemented as final, would be to allow the use of an additional substance in organic handling. Adding a substance to the National List would increase regulatory flexibility and would give small entities more tools to use in day-to-day operations. Therefore, AMS concludes that the economic impact of this addition, if any, would be minimal. Accordingly, USDA certifies that this rule would not have a significant economic impact on a substantial number of small entities.

B. Executive Order 12988.

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations to avoid unduly burdening the court system. Accordingly, to prevent duplicative regulation, states and local jurisdictions are preempted under the OFPA from creating programs of accreditation for private persons or state officials who want to become certifying agents of organic farms or handling operations. A governing state official would have to apply to USDA to be accredited as a certifying agent, as described in section 6514(b) of the OFPA. States are also preempted under sections 6503 through 6507 of the OFPA from creating certification programs to certify organic farms or handling operations unless the state programs have been submitted to, and approved by, the Secretary as meeting the requirements of the OFPA.

Pursuant to section 6507(b)(2) of the OFPA, a state organic certification program that has been approved by the Secretary may, under certain circumstances, contain additional requirements for the production and handling of agricultural products organically produced in the state and for the certification of organic farm and handling operations located within the state. Such additional requirements must (a) further the

purposes of the OFPA, (b) not be inconsistent with the OFPA, (c) not be discriminatory toward agricultural commodities organically produced in other States, and (d) not be effective until approved by the Secretary.

In addition, pursuant to section 6519(c)(6) of the OFPA, this proposed rule would not supersede or alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601–624), the Poultry Products Inspection Act (21 U.S.C. 451–471), or the Egg Products Inspection Act (21 U.S.C. 1031–1056), concerning meat, poultry, and egg products, respectively, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 *et seq.*), nor the authority of the Administrator of the EPA under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 *et seq.*).

This proposed rule is not intended to have a retroactive effect.

C. Paperwork Reduction Act.

No additional collection or recordkeeping requirements are imposed on the public by this proposed rule. Accordingly, OMB clearance is not required by the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, Chapter 35.

D. Executive Order 13175

This proposed rule has been reviewed under Executive Order 13175 – Consultation and Coordination with Indian Tribal Governments. Executive Order 13175 requires Federal agencies to consult and coordinate with tribes on a government-to-government basis on: (1) policies that have tribal implication, including regulation, legislative comments, or proposed legislation; and (2) other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

AMS has assessed the impact of this proposed rule on Indian tribes and determined that this rule would not have tribal implications that require consultation under Executive Order 13175. AMS hosts a quarterly teleconference with tribal leaders where matters of mutual interest regarding the marketing of agricultural products are discussed. Information about the proposed changes to the regulations will be shared during an upcoming quarterly call, and tribal leaders will be informed about the proposed revisions to the regulation and the opportunity to submit comments. AMS will work with the USDA Office of Tribal Relations to ensure meaningful consultation is provided as needed with regards to the NOP regulations.

E. General Notice of Public Rulemaking

This proposed rule reflects recommendations submitted by the NOSB to the Secretary to add two substances to the National List. A 60-day period for interested persons to comment on this rule is provided.

List of Subjects in 7 CFR Part 205

Administrative practice and procedure, Agricultural commodities, Agriculture, Animals, Archives and records; Fees, Imports, Labeling, Livestock, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 205 as follows:

PART 205—NATIONAL ORGANIC PROGRAM

1. The authority citation for part 205 continues to read as follows:

Authority: 7 U.S.C. 6501–6524.

2. Amend § 205.2 by adding, in alphabetical order, the definition for “Paper-based crop planting aid”.

§ 205.2 Terms Defined.

* * * * *

Paper-based crop planting aid. A material that is comprised of at least 60% cellulose-based fiber by weight, including, but not limited to, pots, seed tape, and collars that are placed in or on the soil and later incorporated into the soil, excluding biodegradable mulch film. Up to 40% of the ingredients can be nonsynthetic, other permitted synthetic ingredients at § 205.601(j), or synthetic strengthening fibers, adhesives, or resins. Contains no less than 80% biobased content as verified by a qualified third-party assessment (e.g., laboratory test using ASTM D6866 or composition review by qualified personnel). Added nutrients must comply with §§ 205.105, 205.203, and 205.206.

* * * * *

3. Amend § 205.601 by revising paragraph (o) to read as follows:

§ 205.601 Synthetic substances allowed for use in organic crop production.

* * * * *

(o) Production aids:

(1) Microcrystalline cheesewax (CAS #'s 64742-42-3, 8009-03-08, and 8002-74-2)-for use in log grown mushroom production. Must be made without either ethylene-propylene co-polymer or synthetic colors.

(2) Paper-based crop planting aids as defined in § 205.2. Virgin or recycled paper without glossy paper or colored inks.

* * * * *

4. Amend § 205.605 by:

a. In paragraph (a), revising the entry for “Waxes”.

b. In paragraph (b), adding, in alphabetical order, an entry for “Low-acyl gellan gum.”.

The addition and revision to read as follows:

§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s)).”

* * *

(a) * * *

Waxes – nonsynthetic (Wood rosin).

* * * * *

(b) * * *

Low-acyl gellan gum.

* * * * *

Erin Morris,

Associate Administrator,

Agricultural Marketing Service.